IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5235 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

G S R T C

Versus

MAHENDRA M JOSHI(DR.)

Appearance:

MRS VASAVDATTA BHATT for Petitioner

MRs. Sangeeta Pahwa for PM THAKKAR for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 24/08/2000

ORAL JUDGEMENT

1. The petitioner Corporation challenges the award dated 26-2-1992, by which the respondent who was a part time Ayurvedic Medical Practitioner employed by the Corporation, was ordered to be reinstated in service with 50 % of backwages for the period from 1-2-1981 to

30-9-1987 and full backwages from 1-10-1987 till the date of publication of the award.

2. The only dispute was whether the services of the petitioner who was a part-time Medical Officer can be terminated or not. The Labour Court in paragraph-12 of its award, on the basis of the material on record, came to a finding that, the petitioner was serving as a part-time Medical Officer from 24-1-1977 upto 31-1-1981, and his employment was terminated without giving any retrenchment compensation in accordance with provisions of Section 25-F of the Industrial Disputes Act.

3. In ARUN MILLS LTD Vs. DR. CHANDRAPRASAD, reported in 17 G.L.R. 291, a Division Bench of this Court held that, a Medical practitioner is expected to diagnose a disease and is also expected to know what chemical reactions will be offered by the body chemistry of a particular patient on the administration of a particular drug. It was held that, all this knowledge is surely a specialised knowledge which requires good deal of study and experience, and therefore, the knowledge of a doctor can be considered as a highly technical knowledge. Therefore, if a person is employed in an industry to discharge his duties as a medical man, he would be a person doing a technical work in the said industry, and he would squarely fall within the definition of the word "Workman" given in section 2(s) of the Industrial Disputes Act.

There is no reason to deny the status of a workman even to an Ayurvedic Doctor because the science of Ayurved also involves specialised and technical knowledge. Therefore, since the petitioner was rightly treated as a workman by the Labour Court, his retrenchment in contravention of provisions of section 25-F of Industrial Disputes Act was validly set aside by the Labour Court. The Labour Court had exercised its jurisdiction on the basis of the material on record, warranting no interference by this Court. The petition is therefore rejected. Rule discharged, with no order as to costs.

DT: 24-8-2000 (R.K. Abichandani, J)

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